



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PURCHASE BUREAU
P.O. Box 230
TRENTON, NJ 08625-0230

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Acting Governor

JOHN E. MCCORMAC, CPA
State Treasurer

July 28, 2005

TO: All Potential Bidders

RE: RFP #: **06-X-37447**

FOODS: Juices, Frozen, - DSS

IMPORTANT NOTES:

a) New Business Registration Requirements – This is a change from previous requirements. Failure to submit a copy of your Business Registration Certificate (or interim registration) from the Division of Revenue with the Bid Proposal may be cause for rejection of the bid proposal.

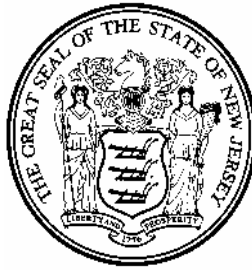
b) Executive Order 134 Certification and Disclosure Submittal Requirements Revised – In order to simplify the EO 134 compliance process, effective December 22, 2004, submission of EO 134 Certification and Disclosure forms will be required to be submitted following notice of intent to award.

Enclosed please find a complete set of bid documents for the above referenced solicitation. The following are the key dates for the project:

Date	Time	Event
08/05/05	5:00 PM	Bidder's Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)
08/19/05	2:00 PM	Bid Submission Due Date (Refer to RFP Section 1.3.5 for more information.)

To ask direct questions concerning the contents of this RFP, please go to the Quicklinks Q&A button on the Advertised Solicitation, Current Bid Opportunities webpage.

<http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>



Bid Number: 06-X-37447

REQUEST FOR PROPOSAL FOR:

FOODS: JUICES, FROZEN, - DSS

Date Issued: 07/28/05

Purchasing Agency

State of New Jersey
Department of the Treasury
Division of Purchase and Property
Purchase Bureau, PO Box 230
33 West State Street
Trenton, New Jersey 08625-0230

Using Agency

Distribution & Support Services
1620 Stuyvesant Ave.
W. Trenton, NJ 08625

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of the Department of the Treasury, Distribution and Support Services (DSS). The purpose of this RFP is to solicit bid proposals for **frozen various juices, 4 oz. / 6 oz. sizes.**

The intent of this RFP is to award (a) contract(s) to that (those) responsible bidder(s) whose bid proposals, conforming to this RFP is (are) most advantageous to the State, price and other factors considered.

The NJ Standard Terms & Conditions, located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>, will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

This is a repurchase of the **Juices, Frozen, 4 oz. / 6 oz.** term contract, presently due to expire on **08/14/05**. Vendors who are interested in the current contract specifications and pricing information are encouraged to visit the Purchase Bureau's website on the World Wide Web. The applicable "T" reference number for this lookup is **T-0021**. The exact WWW address is: <http://www.state.nj.us/treasury/purchase/contracts.htm>

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

It is the policy of the Purchase Bureau to accept questions and inquiries from all potential bidders electronically via web form. To submit a question, please go to the Quicklinks Q&A button on the Advertised Solicitation, Current Bid Opportunities webpage or to <https://www.neta.state.nj.us/treasury/dpp/ebid/QA.aspx>.

After the submission of bid proposals, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be directed to the web form. Any further contact or information about the proposal to the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

1.3.1.1 QUESTION PROTOCOL

Questions should be addressed in writing via the procedure set forth above. Questions should be directed to the RFP by the writer and questions should be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Bidders shall not contact the Using Agency directly, in person, by telephone or by email, concerning this RFP.

1.3.1.2 CUT-OFF DATE FOR QUESTIONS AND INQUIRIES

The cut-off date for questions and inquiries relating to this RFP is **08/05/05**. Addenda, if any, to this RFP will be posted to the Purchase Bureau website (see Section 1.4.1. of this RFP for further information.)

1.3.2 MANDATORY SITE VISIT

Not applicable to this procurement.

1.3.3 MANDATORY PRE-BID CONFERENCE

Not applicable to this procurement.

1.3.4 OPTIONAL PRE-BID CONFERENCE:

Not applicable to this procurement.

1.3.5 SUBMISSION OF BID PROPOSAL

In order to be considered for award, the bid proposal must be received by the Purchase Bureau of the Division of Purchase and Property at the appropriate location by the required time. You must submit a bid proposal in order to be considered for contract award. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE RIGHT PLACE WILL BE REJECTED. THE DATE, TIME AND LOCATION ARE:**

<u>DATE:</u>	08/19/05
<u>TIME:</u>	2:00 PM
<u>LOCATION:</u>	BID RECEIVING ROOM - 9TH FLOOR PURCHASE BUREAU DIVISION OF PURCHASE AND PROPERTY DEPARTMENT OF THE TREASURY 33 WEST STATE STREET, P.O. BOX 230 TRENTON, NJ 08625-0230 Directions to the Purchase Bureau can be found on the following website: http://www.state.nj.us/treasury/purchase/directions.shtml

1.3.6 DOCUMENT REVIEW

Not applicable to this procurement.

1.4 ADDITIONAL INFORMATION

1.4.1 REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum.

ALL RFP ADDENDA WILL BE ISSUED ON THE PURCHASE BUREAU WEB SITE. TO ACCESS ADDENDA THE BIDDER MUST SELECT THE BID NUMBER ON THE PURCHASE BUREAU BIDDING OPPORTUNITIES WEB PAGE AT THE FOLLOWING ADDRESS:

[HTTP://WWW.STATE.NJ.US/TREASURY/PURCHASE/BID/SUMMARY/BID.SHTML.](http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml)

There are no designated dates for release of addenda. Therefore interested bidders should check the Purchase Bureau "Bidding Opportunities" website on a daily basis from time of RFP issuance through bid opening.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

1.4.2 ADDENDUM AS A PART OF THIS RFP

Any addendum to this RFP shall become part of this RFP and part of any contract awarded as a result of this RFP.

1.4.3 ISSUING OFFICE

This RFP is issued by the Purchase Bureau, Division of Purchase and Property.

1.4.4 BIDDER RESPONSIBILITY

The bidder assumes sole responsibility for the complete effort required in submitting a bid proposal in response to this RFP. No special consideration will be given after bid proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP. By submitting a bid proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, as to all of the requirements of this RFP.

1.4.5 COST LIABILITY

The State assumes no responsibility and bears no liability for costs incurred by a bidder in the preparation and submittal of a bid proposal in response to this RFP.

1.4.6 CONTENTS OF BID PROPOSAL

Subsequent to bid opening, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law. A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The State reserves the right to make the determination and shall so advise the bidder. The location in the bid proposal of any such designation should be clearly stated in a cover letter. The State will not honor attempts by bidders either to designate their entire bid proposal as proprietary and/or to claim copyright protection for their entire proposal.

All bid proposals, with the exception of information determined by the State to be proprietary, are available for public inspection.

Interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

1.4.7 PRICE ALTERATION

Bid prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award being made to the bidder.

1.4.8 JOINT VENTURE

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Affirmative Action Employee Information Report, MacBride Principles Certification and Business Registration or Interim Registration must be supplied by each party to the joint venture.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions shall be part of any contract awarded or order placed as result of this RFP.

Addendum - Written clarification or revision to this RFP issued by the Purchase Bureau.

Amendment - A change in the scope of work to be performed by the contractor. An amendment is not effective until signed by the Director, Division of Purchase and Property.

Bidder – A vendor submitting a bid proposal in response to this RFP.

Contract - This RFP, any addendum to this RFP, the bidder's bid proposal submitted in response to this RFP and the Division's Notice of Acceptance.

Contractor - The contractor is the bidder awarded a contract.

Director - Director, Division of Purchase and Property, Department of the Treasury. By statutory authority, the Director is the chief contracting officer for the State of New Jersey.

Division - The Division of Purchase and Property.

May - Denotes that which is permissible, but not mandatory.

Request for Proposal (RFP) - This document, which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of [the] Using Agency[ies], as identified herein.

Shall or Must - Denotes that which is a mandatory requirement.

Should - Denotes that which is recommended, but not mandatory.

State - State of New Jersey

Using Agency[ies] - The entity[ies] for which the Division has issued this RFP.

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

3.1 BREAKDOWN OF RFP

This solicitation consists of two (2) sections.

Section "A" contains line items #00001 thru #00010 for delivery to Distribution and Support Services (DSS) in combined truckloads of 1380 cases.

Section "B" contains line items #00011 thru #00014 for delivery to Distribution and Support Services (DSS) in combined truckloads of 1100 cases.

3.2 DELIVERY

Delivery time required after receipt of order must be shown as days or weeks on the signatory page of this solicitation. Delivery time indicated as "at once" or "as requested" will not be considered. Delivery time of more than 14 days will not be considered.

3.3 METHOD OF OPERATION

Section "A" (Line items #00001 thru #00010)

Orders will be placed by DSS in combined minimum quantity of 1380 cases for delivery to Distribution & Support Services. Purchase orders will be faxed to vendors in advance. Original purchase orders, including payment vouchers will be mailed to the vendor. Payment vouchers must be submitted to DSS Accounts Payable for payment.

Section "B" (Line items #00011 thru #00014)

Orders will be placed by DSS in combined minimum quantity of 1100 cases for delivery to Distribution & Support Services. Purchase orders will be faxed to vendors in advance. Original purchase orders, including payment vouchers will be mailed to the vendor. Payment vouchers must be submitted to DSS Accounts Payable for payment.

3.4 METHOD OF AWARD

Each section is "all or none" awards. Bidders are not required to bid on all sections but must bid on all line items for each section that they submit bids for to qualify for consideration. Award will be made to the overall lowest bidder for all line items within each section.

3.5 REQUIREMENTS

3.5.1 Individually packed frozen 4 oz. juices must contain no added preservative and be packaged in plastic containers with hermetically sealed lids.

3.5.2 All containers shall be free from dirt, grit and any other unsanitary conditions.

3.5.3 All individually packed frozen 4 oz. juices must be delivered in a frozen state by a refrigerated truck with operable refrigeration unit capable of holding product in required frozen state. Required frozen state is defined as solid or semi-solid product with temperature determined, by probe, to be 29 degrees "f" or below with no evidence of prior thaw and refreeze. Failure of product to comply with this requirement will be cause for rejection of product at contractors' expense. These maximum temperature limits must be adhered to without exception on every delivery.

3.5.4 All boxes of individually packed frozen 4 oz. juices must be clean and free from dirt, evidence of leakage, spillage or any other unsanitary condition.

3.5.5 All deliveries will be randomly checked and observed by DSS quality assurance dock inspector for obvious evidence of leakage or spillage in any box. Evidence of leakage or spillage which exhibits unsanitary condition in any box will be grounds for rejection of that box at contractors' expense. Excessive or repeated rejection will be cause for cancellation of contract for poor performance.

3.5.6. Microbiological data:

All products offered must comply with the following requirements:

yeast count - <(less than) 10 colony forming units (cfu) per milliliter of juice.

mold count - <(less than) 10 colony forming units (cfu) per milliliter of juice.

3.6 CERTIFICATIONS

3.6.1 All juices are to be produced under USDA in plant on line inspection only, to be indicated by proper USDA shield on each individual container lid.

3.6.2. All individual 4 oz. containers are to contain proper USDA shield to indicate grade (where applicable) and required in plant on line inspection in accordance with cfr 752.53 (page 64) as follows:

Orange juice - shield from figure #5 shall appear on lid of each individual container.

Apple juice - shield from figure #8 shall appear on lid of each individual container.

Fruit punch - shield from figure #8 shall appear on lid of each individual container.

Grapefruit - shield from figure #5 shall appear on lid of each individual container.

Prune - shield from figure #8 shall appear on lid of each individual container.

Grape - shield from figure #8 shall appear on lid of each individual container.

Cranberry - shield from figure #8 shall appear on lid of each individual container.

Orange/pineapple - shield from figure #8 shall appear on lid of each individual container.

Pineapple - shield from figure #5 shall appear on lid of each individual container.

Orange/grapefruit - shield from figure #5 shall appear on lid of each individual container.

Juices produced under continuous inspection are acceptable and must have shield from figures #1 thru #4 on the lid of each individual container.

Juices produced under lot inspection are not acceptable.

3.6.3 See section 8.0 of the standard terms and conditions for case marking requirements for food and frozen food products.

3.7 DELIVERIES

3.7.1 All truck deliveries must either arrive on 48" x 40" a.g.a. pallets (or equal) in good condition or be transferred to distribution center pallets before delivery will be accepted. Pallet exchange is available.

All deliveries must be completely unloaded and accepted by 3 p.m. Positively no deliveries will be accepted after 3 p.m.

Segregation is required

Itemized packing list must accompany all shipments.

3.7.2 All individual 4 oz. and 6 oz. samples, when requested for bid evaluation, must consist of one case of each flavor, frozen to shipment requirements. Samples must be received no later than ten (10) working days after request. Failure to comply to sample request in a timely fashion will be cause for rejection of bid.

3.7.3 All rejected deliveries must be replaced within three (3) working days without fail. Repeated rejections for any reason will not be tolerated, and will be cause for cancellation of contract.

3.7.4 Contractors awarded contracts must comply with provision 4.1 of the Purchase Bureau terms and conditions concerning manufacturer's price decreases. Failure to comply may result in the State invoking contract cancellation proceedings for cause, pursuant to provision 3.5(b), 1 of the State of New Jersey Terms and Conditions.

3.8 SPECIAL TERMS & CONDITIONS 4 OZ. JUICES

3.8.1 REQUIREMENTS

3.8.1.1 Individually packed shelf stable 4 oz. juices must contain no added preservatives and be packaged in plastic containers, sealed to provide non refrigerated storage for a minimum of six (6) months from the date of delivery.

3.8.1.2. All containers shall be free from dirt, grit and any other unsanitary conditions.

3.8.1.3. All cases of individually packed shelf stable 4 oz. juices must be clean and free from dirt, evidence of leakage, spillage or any other unsanitary condition.

3.8.1.4. All deliveries will be randomly checked and observed by DSS Quality Assurance dock inspector for obvious evidence of leakage or spillage in any case. Evidence of leakage or spillage which exhibits unsanitary condition in any case will be justification for rejection of that case at the contractor's expense

3.8.1.5. Microbiological Data:

All products offered must comply with the following requirements:

Yeast Count - < (less than) 10 colony forming units (CFU) per milliliter of juice.

Mold count - < (less than) 10 colony forming units (CFU) per milliliter of juice.

3.8.1.6. All juices are to be produced under USDA in plant, on line inspection only, to be indicated by proper USDA shield on each individual container lid.

3.8.1.7. All individual containers are to contain proper USDA shield to indicate grade (where applicable) and required in plant, on line inspection in accordance with CFR 752.53 (page 64) as follows:

Orange Juice - Shield from figure #5 shall appear on lid of each individual container

Apple Juice - Shield from figure #8 shall appear on lid of each individual container.

Fruit Punch - Shield from figure #8 shall appear on lid of each individual container.

Grapefruit - Shield from figure #5 shall appear on lid of each individual container.

Prune - Shield from figure #8 shall appear on lid of each individual container.

Grape - Shield from figure #8 shall appear on lid of each individual container.

Cranberry - Shield form figure #8 shall appear on lid of each individual container.

Orange/Pineapple - Shield from figure #8 shall appear on lid of each individual container.

Pineapple - Shield from figure #5 shall appear on lid of each individual container.

Orange/Grapefruit - Shield from figure #5 shall appear on lid of each individual container.

Juices produced under continuous inspection are acceptable and must have shield from figures #1 through #4 on the lid of each individual container.

Juices produced under lot inspection are not acceptable.

3.8.1.8. Award will be made to the overall lowest acceptable bidder for each grouping as a frozen product. No flavor substitutions are acceptable. Bids submitted for other than each grouping, as required, will not be considered for award.

3.8.1.9. All truck deliveries must either arrive on 48" X 40" AGA Grocery type pallets (or equal) in good serviceable condition or must be transferred to Distribution Canter pallets before delivery will be accepted. Pallet exchange is available.

3.8.1.10. All deliveries must be completely unloaded and accepted by 3 P.M. Positively no deliveries will be accepted after 3 P.M.

3.8.1.11. Itemized packing list must accompany each delivery or delivery will be rejected at vendor expense.

3.8.1.12. Samples, when requested for bid evaluation, must consist of one full case of each flavor and received no later than ten (10) working days after request. Failure to comply with sample request in a timely fashion as indicated will be cause for bid rejection.

3.8.1.13. Minimum combined order for all flavors of 4 oz. Juices will be 1,386 cases for delivery to the Distribution & Support Services warehouse.

3.9 FROZEN 6 OZ. JUICES

3.9.1. Individually packed frozen 6 oz. juices must contain no added preservatives and be packaged in plastic containers with hermetically sealed lids.

3.9.2. Case packaging for 6 oz. juices will be 48/6 oz. cups per case.

3.9.3. USDA shielding requirements do not apply to the 6 oz. frozen juices.

3.9.4. All containers shall be free from dirt, grit and any other sanitary conditions.

3.9.5. All individually packed frozen 6 oz. juices must be delivered in a frozen state by a refrigerated truck with operable refrigeration unit capable of holding product in required frozen state. Required frozen state is defined as solid or semi solid product with temperature, determined by probe, to be 29 degrees "F" or below with no evidence of prior thaw and refreeze. Failure of product to comply with this requirement will be cause for rejection of product at contractor's expense and replacement of acceptable product within seventy-two (72) hours. These maximum temperature limits must be strictly adhered to without exception on delivery.

3.9.6. All case boxes of 6 oz. juices must be clean and free from dirt, evidence of leaking, spillage or any other unsanitary condition.

3.9.7. Minimum combined order for all 4 flavors of 6 oz. frozen juices will be 1,100 cases FOB destination.

4.0 PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

The bidder must follow instructions contained in this RFP and on the bid signatory page (<http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>) in preparing and submitting its bid proposal. The bidder is advised to thoroughly read and follow all instructions.

The signatory page of this RFP shall be signed by an authorized representative of the bidder. However, if the bidder is a limited partnership, the signatory page of this RFP must be signed by a general partner. If the bidder is a joint venture, the signatory page of this RFP must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the bid proposal.

Pricing and information sheets must be completed in their entirety. Failure to comply with this requirement may result in rejection of the bid proposal.

No changes or white outs will be permitted on the specification sheets, unless each change is initialed and dated in ink by the bidder.

4.2 PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. State regulation mandates that late bid proposals are ineligible for consideration. **THE EXTERIOR OF ALL BID PROPOSAL PACKAGES MUST BE LABELED WITH THE BID IDENTIFICATION NUMBER, FINAL BID OPENING DATE AND THE BUYER'S NAME.** (See RFP signatory page <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>).

4.3 NUMBER OF BID PROPOSAL COPIES

Each bidder must submit **one (1) complete ORIGINAL bid proposal**, clearly marked as the "ORIGINAL" bid proposal. Each bidder should submit **one (1) full, complete and exact copy** of the original. The copies requested are necessary in the evaluation of the bid proposal. Bidders failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the bidder make and retain a copy of its bid proposal.

4.4 PROPOSAL CONTENT

The bid proposal should be submitted as follows:

Forms (Section 4.4.1)

CONTENTS	RFP SECTION REFERENCE	DESCRIPTION
Forms	4.4.1.1	Signatory page, signed and completed. http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml
	4.4.1.2	Ownership Disclosure Form http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml
	4.4.1.3	Disclosure of Investigations and Actions Involving Bidder http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml
	4.4.1.4	MacBride Principles Certification http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml
	4.4.1.5	Affirmative Action Employee Information Report or New Jersey Affirmative Action Certificate http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml
	4.4.1.6	Business Registration from Division of Revenue NJ Standard Terms & Conditions: Section 1.1 http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml

4.4.1 FORMS

4.4.1.1 SIGNATORY PAGE

The bidder shall complete and submit the Signatory page provided on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.1.2 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation or partnership, the bidder must complete the attached Ownership Disclosure Form. A completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

The Ownership Disclosure Form is located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The bidder shall use the chart in Disclosure of Investigations and Actions Involving Bidder located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.1.4 MACBRIDE PRINCIPLES CERTIFICATION

The bidder must complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. Failure to do so may result in the award of the contract to another vendor.

The MacBride Principles Certification Form is located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.1.5 AFFIRMATIVE ACTION

The bidder must complete the attached Affirmative Action Employee Information Report, or, in the alternative, supply either a New Jersey Affirmative Action Certificate or evidence that the bidder is operating under a Federally approved or sanctioned affirmative action program. The requirement is a precondition to entering into a State contract.

The Affirmative Action Forms are located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.1.6 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

FAILURE TO SUBMIT A COPY OF THE BIDDER'S BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.

The bidder may go to www.nj.gov/njbgs to register with the Division of Revenue or to obtain a copy of an existing Business Registration Certificate.

Refer to Appendix 1, Section 1.1. of the NJ Standard Terms and Conditions located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>. and Section 5.2 of this RFP for additional information concerning this requirement.

4.4.1.7 EXECUTIVE ORDER 134

Refer to Section 5.40 of this RFP for more details concerning this requirement.

4.4.1.8 BID BOND

Not applicable to this procurement.

4.4.1.9 PACKER AND BRAND INFORMATION:

The contractor must supply the following:

- Brand
- Model and/or Product Number
- Packer and/or Processor
- Season Pack
- U.S.D.A. Plant Number
- Any information required on the pricing sheets

Failure to supply this information may be cause for bid proposal rejection. Phrases such as "various packers" or "and others" or names of countries will not be acceptable and will be cause for bid proposal rejection.

4.4.1.10 NUTRITIONAL DATA SHEETS

If requested by the State, the bidder must furnish nutritional data sheets within five (5) days from notification.

4.4.2 SUBMITTALS

4.4.2.1 BIDDER DATA SHEET

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.2.2 REFERENCE DATA SHEETS - SATISFACTORY CUSTOMER SERVICE

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.2.3 MANDATORY CONTRACTOR DATA SHEET - TERMINATED CONTRACTS

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

4.4.2.4 SAMPLES/SAMPLE TESTING

Products offered must be in accordance with this RFP. Bid samples **for pricing lines #00001 through #00014** for evaluation and testing purposes must be made available at no charge and delivered to DSS, Quality Assurance Unit at the bidder's expense. Bidders must, within 10 working days following a request from the State, submit bid samples to DSS, Quality Assurance Unit. Bid samples will not be returned. The DSS, Quality Assurance Unit will conduct laboratory tests to assure that the bid samples submitted **for pricing lines #00001 through #00014** conform to this RFP. The State reserves the right to perform any tests necessary to assure that the bid samples conform to this RFP **[for pricing lines #00001 through #00014]**. The testing results of the DSS, Quality Assurance Unit are final.

Palatability Testing

The State reserves the right to perform palatability testing of bid samples and products delivered. A test panel is appointed by the Chief, DSS. Palatability testing will be supervised and conducted by DSS' Quality Assurance Unit. The Hedonic Scale Method of measuring food preferences will be used. Testing shall be conducted in an impartial atmosphere with a panel not informed of the brand names, vendors and manufacturers until the award recommendation is approved by the Director. If the testing involves a Qualified Product (QPL) and a proposed approved equal basis product, the QPL product will be used as the basis of comparison. In the event a product bid has been determined not to comply with the bid proposal specifications, that product shall not be eligible for contract award.

4.4.2.5 FINANCIAL CAPABILITY OF THE BIDDER

If requested, in order to provide the State with the ability to judge the bidder's financial capacity and capabilities to undertake and successfully complete the contract, the bidder should submit certified financial statements to include a balance sheet, income statement and statement of cash flow, and all applicable notes for the most recent calendar year or the bidder's most recent fiscal year. If certified financial statements are not available, the bidder should provide either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and other information included in the statements fairly present in all material respects the financial condition, results of operations and cash flows of the bidder as of, and for, the periods presented in the statements. In addition, the bidder should submit a bank reference.

A bidder may designate specific financial information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. Bidder may submit specific financial documents in a separate, sealed package clearly marked "Confidential-Financial Information" along with the Bid Proposal.

The State reserves the right to make the determination to accept the assertion and shall so advise the bidder.

4.4.3 COST PROPOSAL

The bidder must submit its pricing using the State supplied price sheet(s) attached to this RFP. Failure to submit all information required will result in the bid being considered non-responsive. Each bidder is required to hold its prices firm through issuance of contract.

4.4.4 TRUCKLOAD QUANTITIES

Where full 952 case truckloads are indicated for a particular item or items, the bidder may offer 1008 case truckloads by indicating, on the bid proposal pricing sheets, those items offered with 1008 case truckloads.

4.4.5 METHOD OF BIDDING OR PRICE SHEETING INSTRUCTIONS, ETC.

Each section of this RFP is an "all or none" award. Bidders are not required to bid on all sections but must bid all line items in each section to qualify for consideration for that section.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addendum to this RFP, the contractor's bid proposal and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the NJ Standard Terms and Conditions, located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and Conditions and the NJ Standard Terms and Conditions, and any Addendum to this RFP, the Addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any Addendum to this RFP, and the bidder's bid proposal, the RFP and/or the Addendum shall govern.

5.2 BUSINESS REGISTRATION

The following shall supplement the Section 1.1, NJ Standard Terms and Conditions pertaining to Business Registration located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>.

"Affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. An entity controls another entity if it owns, directly or individually, more than 50% of the ownership in that entity.

"Business organization" means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof;

"Business registration" means a business registration certificate issued by the Department of the Treasury or such other form or verification that a contractor or subcontractor is registered with the Department of Treasury;

"Contractor" means a business organization that seeks to enter, or has entered into, a contract to provide goods or services with a contracting agency;

"Contracting agency" means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit; with respect to this Contract, the contracting agency shall mean the Division;

"Subcontractor" means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract.

A bidder shall submit a copy of its business registration at the time of submission of its bid proposal in response to this RFP.

A subcontractor shall provide a copy of its business registration to any contractor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor unless the subcontractor first provides proof of valid business registrations.

The contractor shall provide written notice to all subcontractors that they are required to submit a copy of their business registration to the contractor. The contractor shall maintain a list of the names of any subcontractors and their current addresses, updated as necessary during the course of the contract performance. The contractor shall submit to the contracting agency a copy of the list of subcontractors, updated as necessary during the course of performance of the contract. The contractor shall submit a complete and accurate list of the subcontractors to the contracting agency before a request for final payment is made to the using agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State.

This paragraph shall apply to all contracts awarded on and after September 1, 2004

5.3 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of **six (6) months**. The anticipated "Contract Effective Date" is provided on the signatory page of this RFP located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract. The contract may be extended for all or part of the six (6) month period, by the mutual written consent of the contractor and the Director. Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than 45 days after contract expiration.

5.4 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than ninety (90) days beyond the expiration date of the contract.

5.5 AVAILABILITY OF FUNDS

The State's obligation to pay the contractor is contingent upon the availability of appropriated funds from which payment for contract purposes is made. No legal liability on the part of the State for payment of any money shall arise unless funds are made available each fiscal year to the Using Agency by the Legislature.

5.6 CONTRACT AMENDMENT

Any changes or modifications to the terms of the contract shall only be valid when they have been reduced to writing and signed by the contractor and the Director.

5.7 PROCEDURAL REQUIREMENTS AND AMENDMENTS

5.7.1 The contractor shall comply with procedural instructions that may be issued from time to time by the Director.

5.7.2 During the period of the contract, no contractual changes are permitted, unless approved in writing by the Director.

5.7.3 The State reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director to be in the State's best interest.

5.8 ITEMS ORDERED AND DELIVERED

Distribution and Support Services is authorized to order and **the contractor/contractors is/are** authorized to ship only those items covered by the contracts resulting from this RFP. If a review of orders placed by the Using Agency [Agencies] reveals [reveal] that material other than that covered by the contract has been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director in the termination of the contract or in the award of any subsequent contract. The Director may take such steps as are necessary to have the items returned by the Agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.

The contract involves items, which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State's ongoing needs.

5.9 NUTRITIONAL DATA SHEETS

If requested by the State, the contractor must furnish nutritional data sheets to the using agency, within five (5) days of such a request.

5.10 REMEDIES FOR NON-PERFORMANCE

In the event that the contractor fails to comply with any material contract requirement, the Director may take steps to terminate the contract in accordance with the State administrative code. In this event, the Director may authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor.

5.11 All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

5.12 All products shall be manufactured and packaged under modern sanitary conditions in accordance with good commercial practice.

5.13 All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to insure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by DSS at the contractor's expense.

5.14 All weights are net weights. DSS official weight scales are maintained by the Quality Assurance Unit and shall be used to record weight data. DSS weights shall govern.

5.15 All products are subject to final acceptance at point of delivery. Rejected shipments are the responsibility of the contractor and must be removed from DSS premises at contractor expense.

5.16 Product offered shall be of the latest season's pack available as of the effective (start) date of the contract. References for determining latest season's pack and shelf life are:

5.16.1 USDA Seasonal Marketing Guide for Fresh Fruits and Vegetables (Latest Edition).

5.16.2 USDA Handbook-Usual Planting and Harvesting Date in Principal Producing Areas (Latest Edition).

5.16.3 USDA Handbook-Fruits and Tree Nuts: Blooming, Harvesting and Harvesting Dates (Latest Edition).

5.16.4 USDA File Code:145-A-3: Requirements for "Latest Season Pack".

5.16.5 Department of Defense (DOD) Publication - DOD 4145.19-R-1 Storage and Materials Handling.

Contractor/packers will be required to make such records available to the USDA inspector/grader as may be necessary to document and confirm the month and year of pack. General statements, such as a letter from the contractor/packer indicating that the product is of "latest season pack", will not be acceptable unless the month and year of the pack is included in such letter or statement.

5.17 If circumstances beyond the control of the contractor may possibly result in a late delivery, it is the responsibility of the contractor to immediately make the details known to DSS in writing: DSS, P.O. Box 234, West Trenton, New Jersey 08625; Fax: (609) 530-4582. DSS reserves the right to cancel all or part of any such order and purchase the item or items elsewhere, charging any price increase to the contractor.

5.18 If the contractor fails to deliver by the specified delivery date, DSS reserves the right to cancel the portion of the order which the contractor has failed to deliver within the specified time and to purchase that item or items elsewhere, charging the increase in price and cost of handling, if any, to the contractor. In the event of a contract cancellation for cause, the State reserves the right to cancel all outstanding orders.

5.19 The State reserves the right to test the delivered product during the contract term to ensure that it meets the contract requirements. If the product fails to meet contract requirements, the delivery shall be rejected and must be replaced within a period of time considered reasonable by DSS. If said replacement is not made, DSS reserves the right to purchase product elsewhere, charging any increase in price or handling to the contractor.

5.20 DELIVERIES

5.21 Items must be stacked on 48" x 40" four-(4) way grocery pallets before delivery will be accepted at DSS.

5.21.1 Items that are floor loaded upon delivery must be transferred to 48" x 40" four-(4) way grocery pallet by the carrier truck driver before delivery will be accepted.

5.21.2 Items that are delivered on other than 48" x 40" four-(4) way grocery pallets must be transferred to acceptable pallets by carrier truck driver before delivery is accepted.

5.21.3 Pallet exchange is available.

5.21.4 Segregation of product is required.

5.21.5 Palletization or re-palletization shall be the sole responsibility of the delivering carrier, and no additional charges will be paid by DSS for this procedure.

5.21.6 Full pallets must be broken down to a maximum 65 inches in height by the carrier driver for non-frozen products and 51 inches for frozen products.

5.21.7 The contractor must be consistent with deliveries and provide the truckload quantities as awarded. The contractor cannot change truckload quantities. Overages will be refused at the contractor's expense and shortages will be cause for formal complaint.

5.22 Bidders awarded contracts for items, which require USDA inspection, and certification must forward copies of all specifications, terms and conditions and item descriptions from the original specifications to the entity which is preparing the item for inspection, certification and delivery. Failure to forward this information may delay USDA certification and in turn delay delivery to DSS. Contractors who fail to comply with this requirement and cause a delay in delivery will be held accountable for such non-compliance.

5.23 All frozen products shall be in a wholesome and sanitary condition with all cartons sealed at top and bottom and in sound condition at the time of delivery. Packaging must be in accordance with good commercial practices in order to protect the quality of the product and prevent freezer burn or dehydration. Shipments shall be made in mechanically refrigerated trucks with refrigeration unit operational and interior of the unit at 0 degrees Fahrenheit or below. All products to be delivered F.O.B. State of New Jersey, Department of the Treasury, Distribution Center, 1620 Stuyvesant Avenue, West Trenton, N.J. 08625-0234.

5.24 For all shipments (canned, dry or frozen) where a certificate (U.S.D.A.- U.S.D.C.) is required, the certificate must arrive with the shipment or be in the possession of the DSS Quality Assurance Unit prior to the delivery date. Official USDA Roll Stamping is also required on all shipments that require a USDA certificate. If the shipment arrives without the certificate, the shipment will be accepted, provided that the cases are officially stamped or rolled. This shipment will be placed "on hold" pending receipt of the certificate. Failure to provide the certificate within five (5) working days will result in the conditional acceptance being revoked and storage charges being assessed starting on the sixth (6) working day and continuing until the shipment is removed. Cash discount terms will be predicated on the date the delayed certification is received. All cost of inspection and certification will be paid by the contractor.

All canned items must be packaged in accordance with Federal Specification PPP-C-29G "Canned Subsistence Items, Packaging Of" with latest amendments.

5.24.1 Bidders signature on the front page of this solicitation will verify and acknowledge that the bidder has ready access to and will provide USDA grading, certification and case stamping as required in each line item description.

5.25 The cargo section of the delivery vehicle must be totally free of garbage, refuse, trash and other cargo matter that may be involved in the development of pathogenic or toxigenic micro organisms that could possibly cause undesirable deterioration of the product. The cargo section of any delivery vehicle must be free of all obnoxious odors that may immigrate into the product or the product packaging rendering the product unacceptable for sale. Presence of any of these conditions will be cause for complete rejection of the delivery.

5.26 Damaged Goods Upon Delivery: shipments containing damaged goods may be either partially accepted by DSS (with damaged goods rejected) or totally rejected by DSS depending on the severity of the damage. The carrier truck driver will bear sole responsibility for any "re-working" of palletized damaged goods for the removal of any damaged goods from acceptable goods. DSS will not be responsible for any additional costs associated with this procedure. This will apply to all carriers and all deliveries. It is the responsibility of the contractor to communicate these requirements to the carriers it employs for deliveries to DSS.

5.27 Unloading Time Limit: once started, the unloading process may not extend beyond a four (4) hour time period due to palletization, re-palletization or re-working of pallets for removal of damaged goods. Partial acceptance or partial rejection may result after this four (4) hour unloading period has expired.

5.28 Closing Time: The DSS receiving unit closes at 3:00 p.m. daily. All deliveries must be completed by 3:00 p.m. Trucks attempting to deliver goods near 3:00 p.m. may be rejected if load cannot be completely unloaded by 3:00 p.m.

5.29 Packing Slip Requirement: All deliveries must be accompanied by a packing slip indicating the name of the contractor and valid DSS purchase order number. Deliveries not properly identified may be rejected and returned at the contractor's expense.

5.30 Special Instructions: From time to time DSS may issue special shipping instruction to the contractor, which will supersede the requirements listed above. These special instructions will be relayed to the contractor at the time that order is placed and may affect block patterns or carton marking.

5.31 Carton (Case) Marking Requirement: All shipping cartons shall be marked in accordance with Federal Standard No. 123f as amended, and as modified by these terms and conditions. All cartons must be plainly marked on any two adjacent sides so that palletized cartons may be easily identified. In addition to bid proposal specification requirements, the following must be included:

Contents (industry standard item description)
State contract number

Cartons not complying with all marking requirements at time of delivery will be refused and returned at contractor's expense. No marking of post delivery of cartons will be permitted at the DSS warehouse or dock.

5.32 Combined Deliveries: The contractor must not combine deliveries of items with various scheduled delivery dates, unless authorized by DSS. If the contractor combines shipments without proper authorization, the contractor will be assessed the difference in freight charges between separate shipments and combined shipments, if shipment is accepted. Any monies due the State of New Jersey will be deducted from the contractor's payment.

5.33 REQUIRED BLOCK PATTERNS:

5.34 Cases of 6/#10 cans must be palletized in 8 block, 7 high configuration before delivery can be accepted.

5.34.1 Cases other than 6/#10 cans must be configured with an interlocking block pattern, which must be consistent throughout the load for like items. Stretch wrapping or taping is required for all palletized loads.

5.34.2 Palletized loads should be built to a maximum height of 51" for frozen products and 65" for non-frozen products.

5.34.3 DSS standards for height & block patterns can be obtained by calling the receiving dock at (609) 530-3314 prior to delivery.

5.35 NOT APPLICABLE TO THIS PROCUREMENT

5.36 PERFORMANCE BOND

A performance bond is not required for this procurement.

5.37 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1.1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq..

5.38 FORM OF COMPENSATION AND PAYMENT

This Section supplements Section 4.5 of the RFP'S Standard Terms and Conditions. located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x37447.shtml>. The contractor must submit official State invoice forms to the Using Agency with supporting documentation evidencing that work for which payment is sought has been satisfactorily completed. Invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager before payment will be authorized.

In addition, primary contractors must provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business subcontractor(s). This breakdown shall be sent to the Purchase Bureau Business Unit, Set-Aside Coordinator.

Invoices must also be submitted for any special projects, additional work or other items properly authorized and satisfactorily completed under the contract. Invoices shall be submitted according to the payment schedule agreed upon when the work was authorized and approved. Payment can only be made for work when it has received all required written approvals and has been satisfactorily completed.

5.38.1 PAYMENT TO CONTRACTOR - OPTIONAL METHOD

Not applicable to this procurement.

5.39 CONTRACT ACTIVITY REPORT

Not applicable to this procurement.

5.40 REQUIREMENTS OF EXECUTIVE ORDER 134

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). Pursuant to the requirements of EO 134, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

5.40.1 DEFINITIONS

For the purpose of this section, the following shall be defined as follows:

a) Contribution – means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.

b) Business Entity – means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. It also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under 26 U.S.C.A. 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.

5.40.2 BREACH OF TERMS OF EXECUTIVE ORDER 134

It shall be a breach of the terms of the contract for the Business Entity to (i) make or solicit a contribution in violation of this Order, (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of EO 134; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of EO 134; or (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of EO 134.

5.40.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

- a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State or county political party committee during certain specified time periods
- b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by Executive Order 134 have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.
- c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee with the Notice of Intent to Award.

5.40.4 STATE TREASURER REVIEW

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

6.0 PROPOSAL EVALUATION/CONTRACT AWARD

6.1 For a product bid that has been determined to be in compliance with this RFP, the contract shall be awarded on the basis of the following criteria, not necessarily listed in the order of importance:

6.1.1 Price

6.1.2 Experience of the bidder

6.1.3 The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

After the submission of bid proposals, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be directed to the buyer. Any further contact or information about the proposal to the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its bid proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with a bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

It is within the Evaluation Committee's discretion whether to require a bidder to give an oral presentation or require a bidder to submit written responses to questions regarding its bid proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a bid proposal. The assigned buyer will be the sole point of contact regarding any request for an oral presentation or clarification.

6.3 BID DISCREPANCIES

In evaluating bids:

- Discrepancies between words and figures will be resolved in favor of words.
- Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices.
- Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices.
- Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total.
- Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the corrected sum of the column of figures.

6.4 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

Following the opening of bid proposals, the State reserves the right, pursuant to N.J.S.A. 52:34-12(f), to negotiate: the technical services offered, the terms and conditions and/or the price of a proposed contract award with any bidder. In addition, the State reserves the right to seek a Best and Final Offer (BAFO) from one or more bidders. In response to the State's request to negotiate, bidders must continue to satisfy all mandatory RFP requirements but may improve upon their original technical proposal in any revised technical proposal. However, any revised technical proposal that does not continue to satisfy all mandatory requirements will be rejected as non-responsive and the original technical proposal will be used for any further evaluation purposes, in accordance with the following procedure.

The Evaluation Committee will conduct an initial review and determine whether and with which bidder(s) it will negotiate, and will communicate its request to each such bidder. In response, the bidder will submit any required revisions to its proposal.

In response to the State's request for a BAFO, bidders may submit a revised price proposal that is equal to or lower in price than their original submission, but must continue to satisfy all mandatory requirements. Any revised price proposal that is higher in price than the original will be rejected as non-responsive and the original bid will be used for any further evaluation purposes.

After receipt of the results of the negotiation and/or the BAFO(s), the Evaluation Committee will complete its evaluation and recommend to the Director for award that responsible bidder(s) whose bid proposal, confirming to this RFP, is most advantageous to the State, price and other factors considered.

All contacts, records of initial evaluations, any correspondence with bidders related to any request for negotiation or BAFO, any revised technical and/or price proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

6.5 CONTRACT AWARD

Contract award shall be made for each section with reasonable promptness by written notice to that responsible bidder, whose bid proposal, conforming to this RFP, is most advantageous to the State, price, and other factors considered. Any or all bid proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest so to do.